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Message Text

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PAGE 01 STATE 030439

21
ORIGIN VO-03

INFO OCT-01 ISO-00 ORM-02 DHA-02 INSE-00 ARA-06 SCA-01

/015 R

DEPARTMENT

DRAFTED BY SCA:VO:JWCARTER/WFKINGSBURY:DAY
APPROVED BY SCA/VO - JULIO J. ARIAS
D/HA/ORM:RFDORR
ARA/BC:RDRISCOLL
INS/CO:DPOWELL
---------- 102530
R 070250Z FEB 76
FM SECSTATE WASHDC
TO AMEMBASSY SANTIAGO
INFO AMEMBASSY LIMA

C O N F I D E N T I A L STATE 030439

VISAS

E.O. 11652: GDS

TAGS: SREF, CVIS, CI

SUBJECT: REFUGEE AND MIGRATION AFFAIRS, PAROLE OF CHILEAN DETAINEES AND REFUGEES

REF: STATE 135514

1. PAROLE GUIDANCE IN STATE 135514 PROVIDES THAT APPLI-
CANTS CLEARLY EXCLUDABLE UNDER 212(A)(28) INA MAY BE
DENIED BY POST WITHOUT REFERENCE TO DEPARTMENT, EXCEPT
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PAGE 02 STATE 030439

TO SUBMIT BRIEF REPORT. HOWEVER GUIDANCE CALLS FOR
DOUBTFUL CASES CONCERNING ANY GOUNDS OF INELIGIBILITY TO
BE SUBMITTED TO DEPARTMENT (VO) FOR AN ADVISORY OPINION.

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

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PLEASE NOTE THAT ORIGINAL GUIDANCE ON SECURITY DENIALS
WAS DRAFTED WITH PRESUMPTION THAT 212(A)(28) CASES WOULD
BE CLEARLY RECOGNIZABLE AND WELL DOCUMENTED. GREY AREAS
ENCOMPASSING AFFILIATION AND "SYMPATIZANTE" WERE NOT
CONTEMPLATED.

2. AS EMBASSY AWARE, FINDINGS OF INELIGIBILITY OR
UNDESIRABILITY MUST BE ABLE TO WITHSTAND SCRUTINY BOTH
WITHIN AND OUTSIDE THE DEPARTMENT. SUCH FINDINGS MUST BE
CAREFULLY DOCUMENTED IN EMBASSY CABLE. DEPARTMENT BELIEVES
CASES LISTED IN PARA 4 SHOULD EITHER BE MORE FULLY
DOCUMENTED OR SUBMITTED FOR SECURITY ADVISORY OPINION.
- -
3. DEPARTMENT IS AWARE OF DUAL MEANING OF "SIMPATIZANTE"
IN TERMS OF CHILEAN POLITICAL PARTIES, ALTHOUGH THIS HAS
NEVER BEEN CLEARLY STATED BY EMBASSY IN BACKGROUND
CABLE. HOWEVER, FOR CLARITY IN CASES WHERE
"SIMPATIZANTE" IS FOUND TO MEAN "AFFILIATION" WITHIN THE
TERMS OF 22 CFR 42.91(A)(28) NOTE 1.3, THIS SHOULD BE
CLEARLY STATED IN TELEGRAM AND REASONS FOR SUCH FINDINGS
SHOULD BE GIVEN. DEPT WILL NOT BE ABLE TO CONCUR IN
FINDINGS OF 212(A)(28)(C) INELIGIBILITY WHERE BASIS FOR
FINDING NOT EXPLICITLY EXPLAINED IN TELEGRAM.

4. SPECIFIC CASES FOR REVIEW FOLLOW.

A. SALINAS OLGUIN, OSCAR ERNESTO, S-101, SANTIAGO 707.
WHY IS "SIMPATIZANTE INTERPRETED AS AFFILIATION?

B. ANGULO CLARK, LUIS CESAR, S-60 SANTIAGO 804.
WHY IS "SIMPATIZANTE" INTERPRETED AS "AFFILIATION"?

C. GARATE POYANCO, SERGIO DANIEL S-76, SANTIAGO 582.
THIS CASE INVOLVES TWO ISSUES: FIRST, IS AFFILIATION
WITH "MOVIMIENTO UNIVERSITARIO DE IZQUIERDA" (MUI)
GROUNDS FOR INELIGIBILITY UNDER SECTION 212(A)(28)(C)?
IF SO, EMBASSY MUST SHOW THAT IT IS CATEGORY 1 OR 2
ORGANIZATION. SECONDLY, DID GARATE'S ACTIVITIES, EITHER
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PAGE 03 STATE 030439

AS "SIMPATIZANTE" OR AS PARTICIPANT IN RAID ON UNIVERSITY
POWDER BUNKER, CONSTITUTE MUI AFFILIATION? UNLESS REFUTED,
GARATE'S ACCOUNT OF SPONTANEOUS NATURE OF RAID WOULD RULE
OUT HIS BEHAVIOR IN THAT INCIDENT CONSTITUTING MUI
AFFILIATION. CONSOFF THEN WOULD HAVE TO EXPLAIN WHY
"SIMPATIZANTE" INTERPRETED AS "AFFILIATION." (PLEASE
NOTE THAT IN STATE 11259, PARA 6, CARTER EXPRESSED
WILLINGNESS TO REVERSE HIS EARLIER RECOMMENDATION IN THIS
CASE.)

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006

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D. POVEA PACCI, HERALDO SEGUNDO S-117, SANTIAGO 741.
THIS CASE REQUIRES THAT THE DIFFICULT DISTINCTION BE MADE
BETWEEN "A MERE INTELLECTUAL INTEREST IN, SYMPATHY FOR,
OR FAVORING" OF COMMUNISM WHICH DOES NOTCONSTITUTE
"AFFILIATION" (22 CFR 42.9L(A)(28) NOTE 1.31) AND THE
KINDS OF OVERT ACTS THAT DO CONSTITUTE "AFFILIATION."
CONSULAR FINDING OF MIR AFFILIATION IN THIS CASE APPARENT-
LY BASED ON "SIMPATIZANTE" RELATIONSHIP AND/OR POVEA'S
ACT IN PASSING LETTER BETWEEN TWO FRIENDS HE KNEW BELONGED
TO MIR. IF FINDING BASED ON "SIMPATIZANTE" RELATIONSHIP,

PLEASE EXPLAIN WHY "SIMPATIZANTE" INTERPRETED AS
"AFFILIATION." FOR FINDING THAT LETTER PASSING ACT
CONSTITUTED "AFFILIATION," IT MUST BE SHOWN THAT POVEA
WAS KNOWINGLY FURTHERING MIR DOCTRINES BY THAT ACT. SISCO

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